

**IN THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT
OF ALABAMA SOUTHERN DIVISION**

Theresa Rutherford,)	
)	
Plaintiff.)	Civil Action No.:
)	
vs.)	JURY TRIAL DEMANDED
)	
Life Time Fitness, Inc.)	
d/b/a Life Time Fitness)	
)	
)	
Defendant.)	

COMPLAINT

COMES NOW the Plaintiff, Theresa Rutherford, (“Plaintiff”) by and through her undersigned counsel, and hereby files this Complaint against Life Time Fitness, Inc. d/b/a Life Time Fitness (“Defendant”) and seeks redress for injuries suffered caused by the Defendant. Plaintiff states as follows:

JURISDICTION AND VENUE

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C . § 1332 because this action arises under diversity of citizenship and Plaintiff’s claim seeks damages in excess of \$75,000.
2. The unlawful injuries described herein took place within the Southern division of the Northern District of Alabama.

3. Venue is proper in this Court, The United States District Court for the Northern District of Alabama, pursuant to Title 28, U.S.C § 1391 and the Local Rules of the United States District Court for the Northern District of Alabama.

PARTIES

4. Plaintiff Theresa Rutherford is domiciled in the State of Alabama.
5. The Defendant Life Time Fitness, Inc. d/b/a Life Time Fitness is a foreign corporation licensed to do business in Alabama and is incorporated in Minnesota.

GENERAL FACTS

6. On or about March 29, 2019, Plaintiff went to work out as a guest at the Defendant's gym located at 3051 Healthy Way Birmingham, AL 35243.
7. Plaintiff attended a bootcamp class as part of a free trial.
8. The bootcamp class was held outdoors on the turf area.
9. While performing an exercise, as directed by Defendant's instructor, Plaintiff hit a soft spot in the turf.
10. When she hit this soft spot the flooring underneath was uneven and gave way.
11. Plaintiff rolled her foot.

12. Plaintiff was taken to the hospital where she was informed that she would need surgery to repair a broken ankle and leg.

COUNT I NEGLIGENCE

13. Plaintiff re-alleges paragraphs 1-12 as if set out in full herein.

14. On or about March 29, 2019, Plaintiff was a business invitee of Defendant.

15. Plaintiff was on Defendant's premises for the purpose of using a workout pass from the Defendant, who is in the business of operating a gym.

16. While on the Defendant's premises as a business invitee and while exercising reasonable care for her safety, Plaintiff sustained substantial injuries when she slipped and fell on the turf floor due to a hazardous and/or dangerous condition as a proximate consequence of the negligence of the Defendant.

17. Specifically, Plaintiff was taking part in a group bootcamp class on the turf area.

18. The exercises the class was performing included "burpees."

19. While on the turf area, Plaintiff hit a soft spot in the turf.

20. The ground underneath the soft spot was uneven.

21. The uneven ground caused the Plaintiff the roll her foot and suffer injuries as a result.
22. Further, upon information and a good faith belief, Defendant had been put on notice by members of the gym that a dangerous and/or hazardous condition was present in the turf area.
23. At all times pertinent hereto, Defendants negligently caused, permitted, allowed or created a dangerous and/or hazardous condition to exist on the turf area, which rendered the premises hazardous and/or dangerous because of the likelihood that a business invitee might slip and fall.
24. As a proximate result of the negligence of the Defendants, Plaintiff has suffered injuries and damages including, but not limited to, a broken ankle and leg that required surgery, severe physical ailments, physical pain and suffering, mental anguish, physical injury, medical expenses, loss of activity, rehabilitative expenses, lost wages in excess of \$40,000, plus internally or permanently injured/scarred all totaling in excess of \$75,000.

WHEREFORE, premises considered, the Plaintiff claims of the Defendants, separately and severally, punitive and compensatory damages

in an amount in excess of this Court, said amount to be determined, plus costs.

DEMAND FOR JURY TRIAL

The Plaintiff demands trial by jury.

Respectfully submitted,

/s/ Ray Foushee
Raymond Foushee
ASB-9344-X13G
Attorney for Plaintiff

/s/ Jeremy Schatz
D. Jeremy Schatz
ASB-2400-H34Y
Attorney for Plaintiff

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Clerk: Please serve the Defendant via certified mail

Life Time Fitness, Inc. d/b/a Life Time Fitness
C/O Cogency Global Inc.
2 North Jackson Street Suite 605
Montgomery, AL 36104